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Joint written statement* submitted by Tamil Uzhagam, ABC Tamil Oli, Alliance Creative Community Project, Association Bharathi Centre Culturel Franco-Tamoul, Association Burkinabé pour la Survie de l'Enfance, ASSOCIATION CULTURELLE DES TAMOULS EN FRANCE, Association des étudiants tamouls de France, Association Mauritanienne pour la promotion du droit, Association pour les Victimes Du Monde, Association Solidarité Internationale pour l'Afrique (SIA), Association Thendral, Le Pont, L'observatoire mauritanien des droits de l'homme et de la démocratie, Society for Development and Community Empowerment, Tourner La Page, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Need Urgent Action on Cauvery issue*

Deliberate inaction and unconcerned management by the Union Government of India on Cauvery River water sharing verdict issued by the Supreme Court, the Apex Court of India has raised serious concerns on THE RIGHT TO SAFE DRINKING WATER AND SANITATION in Tamil Nadu State of India.

Based on the principle of 'Right to safe drinking water and sanitation' and the subsequent obligation of the state on Special Procedure for right to safe drinking water and sanitation, 'States have the primary responsibility to ensure the full realization of all human rights and must take steps, nationally and through international assistance and cooperation, especially economic and technical, to the maximum of their available resources, to achieve progressively the full realization of the right to safe drinking water and sanitation by all appropriate means, including in particular the adoption of legislative measures in the implementation of their human rights obligations'[1].

Cauvery – The lifeline

The Cauvery River flowing through two major Indian states of Tamil Nadu and Karnataka is an indispensable lifeline for farmers and those population that depend on the river for drinking water and irrigation. 765 kilometers long River spans across the two states with a basin area of 85, 626.23 Sq. km. Out of this, 42% lies in Karnataka, 54% in Tamil Nadu & Karaikkal region (adjoining Puducherry Union Territory) and remaining 4% in neighboring state of Kerala.

Contention and contempt

The river being such a critical resource for life had remained a bone of contention for the two regions for several centuries. In the past, war and revolts have erupted in the era of kingdoms over river sharing and the sad state is continuing in the civilized society as well in the form of agitations till date due to mismanagement and deliberate inaction from the Union Govt. of India. As per the 1924 agreement by the then Madras presidency and Mysore kingdom, the water sharing rights of Tamil Nadu was reasonably upheld. Post India's independence, the water sharing dispute brewed gruesome with numerous violation by Karnataka state on construction of dams and check dams, expansion of irrigation lands without permission and more for which the Government of India took the matter to the apex court in the year 1971 resulting in no action.

In the process of legal battle and lack of commitment by the Union Govt. to uphold its international obligation on basic duty to provide water and sanitation, the state of Tamil Nadu had suffered long years of acute water scarcity, loss of lives, crops and more. There was no respite until a Tribunal verdict in 1991 ordered for a binding water sharing stipulation where Tamil Nadu's share was declared as 419 TMC of Cauvery water while the rest, 270 TMC belonged to Karnataka. The actual release of water by state of Karnataka to Tamil Nadu was fixed at 192 TMC[2].

This share was never implemented to state of Tamil Nadu for the next several years except during the times of flood. The competent central bodies kept failing in getting justice for the state of Tamil Nadu.

In the year 2007, the Tribunal once again reinstated the orders to share water as per earlier orders. Failure of implementation led both the states to take the matter to the apex court in India. Due to inaction by the state of Karnataka, the apex court mandated the Central Govt. of India to constitute Cauvery Management Board, a competent body that can ensure proper water sharing. This was in vain as well.

After extended appeals and hearings, the Supreme Court had released a final verdict early in the year 2018 ordering Karnataka to promptly share water to the state of Tamil Nadu. As a blow to the yearning people of Tamil Nadu, the water share was reduced by 14.75 TMC[3]. The latest verdict stands valid for next decade and half where 177.25 TMC of water is to be shared by Karnataka while it can retain 284 TMC.

It may also be noted that the Cauvery water Tribunal was constituted under the Act of Constitution and not simply by a Government Order (GO). The Act is called The Interstate River Water Disputes Act 1956, the members of which are as powerful as that of Supreme Court Judges and hence the Tribunal's final award is like the decree of Supreme Court. Furthermore, the Act clearly says that once the Tribunal is constituted, no court has any jurisdiction to engage in the

jurisdiction of the Tribunal. But the Supreme Court had entertained the Special Leave Petitions from all contending states through Article 131 of the constitution which in my view is a way of weakening our own laws.

Further, In 1986, the SC had ordered to constitute Cauvery Management Board within 4 weeks but it was never done. Thus govts of India and Karnataka have disobeyed the SC orders several times in the past. Therefore, contempt petition should have been filed many times before.

The Cauvery Management Board has not been formed till date and the Union Government of India has taken a hesitant stand in enforcing the verdict of apex court, breaching its obligation to provide water to its own people.

Violence and Human Rights Violation

Violent protests and riots have only added misery to this sensitive issue. Though violence has been a regular characteristic, year 1991 saw an unprecedented agitation in the state of Karnataka killing 18 people[4]. The Tamil population residing in Karnataka have been targeted and attacked. This has become a routine now for past five decades.

The authorities in Karnataka state have favored the violent mobs, restrained police actions and alleviated many groups from being charge sheeted. Internal Displacement has been happening for years together where people flee for life leaving behind their properties and livelihood.

A more recent crisis broke out in the year 2016 as well where thousands of Tamils fled the calamity areas in search of refuge and shelter. Several buses from state of Tamil Nadu were attacked and burnt. ASSOCHAM (The Associated Chambers of Commerce and Industry) has put the total loss due to violence in Bengaluru as Rs 20,000 crores. The worst was the burning of 45 luxury buses, all in a single depot. Mobs lynched elderly people and women drawing a huge case of human rights concern.

The violence, as per media records and the law enforcement authorities have remained extremely high in the state of Karnataka whereas it has been very low to mild in the state of Tamil Nadu on all occasions.

In most cases, the riots have got fanned due to inaction by both State Govt. of Karnataka and allegiance of Union Government.

Suffering in Tamil Nadu

As many as 144 farmers ended their lives in the state of Tamil Nadu within a span of three months – October to December 2016[5]. Apart from the suicides, the famers have been facing extreme levels of poverty and debts. The financial aids released have also been cursory that never really helped farmers survive.

Biased conduct

The National political parties in India have a firm grip of vote banks in Karnataka state while it is very minimal in the state of Tamil Nadu. Due to this, the National level political parties have remained acutely partial in favor of Karnataka to gain political mileage. This is a gross violation of the democratic principles, the constitution of India and also the International obligations of the Indian state.

In case of Tamil Nadu where regional parties are at the helm, the Union governments have shown no concern in getting justice to the people on their Right to access of share in the River water as a lower riparian state.

UN Resolution (Transboundary aquifer Law) violation

As per Article 6 of the Resolution adopted by the UN General Assembly on The law of transboundary aquifers[6], 'Aquifer States shall, in utilizing transboundary aquifers or aquifer systems in their territories, take all appropriate measures to prevent the causing of significant harm to other aquifer States or other States in whose territory a discharge zone is located.'

Any river cannot be used for simply draining the flood water and polluted water. This is exactly what is being meted out to TN, the lower riparian state by Karnataka and promoted by Goverrnment of India and the so-called national parties, Bharatiya Janata Party (BJP) and Congress.

The state of Karnataka in India, in allegiance with the Union Govt. of India (irrespective of different political parties and time periods) has severely violated the guidelines to prevent harm to the territory where discharge zone is located which is the State of Tamil Nadu.

Conclusion

The UNHRC - Special Procedures for 'Right to safe Drinking water and sanitation' should urge the Govt. of India, along with directions from the Supreme Court to form Cauvery Management Board that can uphold their commitment to International obligations. An ensuing action would also save lives, wipe the injustice inflicted on the people of Tamil Nadu for several decades now.

References

(1) http://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex. aspx

(2) https://www.firstpost.com/politics/kaveri-river-water-dispute-when-did-it-start-and- where-are-we-now-2992002.html

(3) https://www. hindustantimes.com/india-news/ cauvery-water-dispute-verdict- live-updates-supreme-court-to-give-decision-tamil-nadu-and-karnataka-on-alert/story- rPm3yjvHFoHfxZWO0w7WEP.html

(4)http://indianexpress.com/ article/explained/cauvery- verdict-today-what-is-this- dispute-5065922/

(5) http://www.indiaspend.com/ cover-story/ne-monsoon-worst- in-140-years-144-farmers-dead- tamil-nadu-declares-drought- 89699

(6) http://www.un.org/es/ comun/docs/?symbol=A/RES/63/ 124&lang=E

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